

## **CHAPTER 15-62.1**

### **GUARANTEE LOAN PROGRAM**

#### **15-62.1-01. Guarantee student loan programs - Administration - Advisory board.**

The Bank of North Dakota, hereinafter called the "agency", is the state agency designated to administer state guarantee loan programs, as provided in this chapter. The advisory board of directors to the Bank of North Dakota shall act in an advisory capacity concerning the programs. The agency, upon recommendation of the advisory board and subject to approval of the industrial commission, shall expend moneys received and from the interest earned on the principal balance in the reserve funds established pursuant to this chapter as may be necessary to implement and administer the programs. The term "student" includes a parent borrower under this chapter and the term "coinsurance" includes reinsurance.

**15-62.1-02. Powers and duties of the agency.** The agency has the following powers and duties under this chapter:

1. To guarantee all loans which satisfy the requirements set forth in title IV, part B, of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, 1998, upon terms, conditions, and application procedures commensurate with the federal Higher Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, 1998, if federal coinsurance of student loans guaranteed by the agency is available. If at any time the agency determines that student loans made under the terms and conditions of federal coinsurance programs are no longer adequately serving the needs of North Dakota students attending postsecondary institutions, or if federal coinsurance is no longer available, the agency shall notify the industrial commission or its designee. Upon approval of the industrial commission or its designee, the agency shall guarantee student loans without federal coinsurance pursuant to rules made by the agency relating to terms for applicant eligibility in accordance with the provisions of this chapter. Students whose loans are guaranteed by the agency must be students who have been accepted for enrollment or are attending eligible postsecondary institutions located within or outside this state, and whose loans are for the purpose of assisting them in meeting their expenses of postsecondary education. Students who are accepted for enrollment or are attending eligible proprietary or postsecondary institutions of higher education are eligible to have loans guaranteed by the agency. The agency shall, by rule, establish minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.
2. To take, hold, expend, and administer, on behalf of the state from any source any real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the agency may be a general obligation of the state of North Dakota, nor may be payable out of any moneys except those made available to the agency under this chapter. Nothing in this chapter may be construed to authorize the agency to borrow funds for any use relating to the administration of the state guarantee loan programs.

**15-62.1-03. Rates of interest permissible for guaranteed loans.** All loans guaranteed by the agency and coinsured by the federal government must bear interest at rates which are no greater than those provided under the federally coinsured loan programs. In the event that the agency guarantees student loans without federal coinsurance pursuant to section 15-62.1-02, the interest rate on such loans may not be more than two percentage points above the base participation rate as established by the Bank of North Dakota which is in effect on the date the loan is made. Any prohibition on the capitalization of interest does not apply to loans guaranteed under this chapter. A loan guaranteed under this chapter may provide for interest which remains

unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

**15-62.1-04. Repayment of loans.** The agency shall establish rules for the repayment, or deferment of repayment, of loans guaranteed under this chapter consistent with the Higher Education Act of 1965, as amended, and shall also establish rules for the repayment, or deferment of repayment, of loans guaranteed by the agency which are not coinsured by the federal government.

**15-62.1-05. Establishment and maintenance of adequate guarantee funds - Appropriation.** The agency may enter into an agreement with the federal government for the coinsurance of loans guaranteed under this program. The agency shall establish and at all times maintain from funds appropriated under this chapter adequate guarantee reserve funds in special accounts in the Bank of North Dakota unless required by title IV, part B, of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581; 20 U.S.C. 1001 et seq.], as amended through December 31, 1998, to be invested elsewhere. The fund for loans that are coinsured by the federal government must be maintained at a minimum amount equal to the requirements set forth in title IV, part B, of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581; 20 U.S.C. 1001 et seq.], as amended through December 31, 1998. The fund for loans that are not coinsured by the federal government will be determined by the agency but may be no less than the Bank of North Dakota historical default rate. Funds appropriated under this chapter and designated as guarantee agency reserve funds for loans that are not coinsured by the federal government must be administered separately and segregated from reserve funds for loans that are coinsured by the federal government. The securities in which the moneys in the reserve funds may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the respective guarantee loan programs and income in excess of that required to pay the cost of administering the programs must be deposited in the respective reserve fund that corresponds to the source of the initial invested funds. The proceeds of reserve funds received from federal, state, or private sources, for the purpose of guaranteeing loans made to students as provided in this chapter, are appropriated as a continuing appropriation for the payment of defaulted loans guaranteed by each respective fund.

**15-62.1-06. Procedure on default of guaranteed loan.** Whenever it appears to the satisfaction of the agency that a guaranteed loan made in accordance with the provisions of this chapter is in default, and the eligible lender has certified such fact to the agency, the agency shall reimburse the eligible lender making the loan from the reserve fund to the extent the loan was guaranteed by the fund. Whenever payment of the guaranteed principal balance of any insured or guaranteed loan is demanded of the agency, the note and accompanying evidence of the loan must be tendered to the agency in manner and form to confer good title so that the loan may be collected by the agency as it may determine according to law. Neither minority nor any statute of limitations may be used as a defense against collection of any loan through court proceedings.

**15-62.1-07. Fees for insurance and other reasonable costs.** The agency is hereby authorized to charge reasonable fees for guarantee and insurance to students obtaining loans under this chapter, and such fees must be available to defray costs of administering the guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program must be deposited in the reserve fund.

**15-62.1-08. Contract with united student aid funds, incorporated, or similar nonprofit corporation.** The agency is authorized to appoint the united student aid funds, incorporated, or similar nonprofit corporation, as agent of the state, to assist in performing the administrative functions of the state under and subject to the terms and provisions of this chapter and to perform such other duties as may be prescribed by the agency for the proper administration of the guarantee loan program. The agency shall pay fees to the united student aid funds, incorporated, or similar nonprofit corporation, as it may determine necessary for the administration of such program. In the event that the agency has entered into an agreement with

united student aid funds, incorporated, or a similar nonprofit corporation and at a later date determines that it can administer the program more economically and efficiently than can such nonprofit corporation, it shall upon proper notice terminate the agreement with such nonprofit corporation.

**15-62.1-09. Information system.** The eligible postsecondary educational institutions in the state shall furnish to the agency and other lending institutions such information as may be necessary to properly administer the guarantee loan program and the agency shall furnish information in regard to student loan transactions on a regular basis to such postsecondary educational institutions.

**15-62.1-10. Eligibility for participation in federal student loan program.** The agency is directed to comply with such requirements as may be necessary to enter into an agreement with the government of the United States for the purpose of procuring funds and assistance for the administration, development, and operation of a guarantee loan program. No provision of this chapter may be construed or have the effect of preventing the agency from complying with the guarantee loan program requirements of title IV, part B, of the Higher Education Act of 1965, or similar acts of the Congress of the United States or with any amendments thereto relating to the guarantee loan program. In the event that the agency guarantees student loans without federal coinsurance, the agency shall, by rule, establish terms, conditions, and standards governing the operation and administration of the guarantee student loan program. In no case, however, may the agency rules serve to further restrict eligibility requirements or loan limits from those which were applicable as of the date the industrial commission approves the guarantee of loans without federal coinsurance or the date of the termination of federal programs providing coinsurance of student loans.

**15-62.1-11. Coordination with federal programs relating to student loans.** Repealed by S.L. 1979, ch. 267, § 6.

**15-62.1-12. Assistance to other state agencies - Reports to the board.** Repealed by S.L. 1979, ch. 267, § 6.

**15-62.1-13. State scholarship revolving fund - Student loan collections - Uncollectible loans.** The funds in the state scholarship revolving fund, along with the available interest on such moneys and subsequent payments of interest and principal received from students, must be transferred by the Bank of North Dakota to a special fund in the Bank to serve as a reserve fund for a state guarantee loan program. The Bank shall continue to collect all outstanding loans and provide such other services as may be necessary to collect such loans and may cease collection efforts on loans determined uncollectible by action of the industrial commission.

**15-62.1-14. Penalty.** Repealed by S.L. 1975, ch. 106, § 673.